IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

ORDER

S.B. CIVIL WRIT PETITION No.3051/2002
OM PRAKASH & Anr. V/s SMT. RAJBALA KHANDELWAL & Ors.

DATE OF ORDER 19.2.2007

PRESENT

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ

Shri S.R. Yadav for the petitioners.
Ms. Mumtaz for the respondents.

Heard learned counsel for the parties.

The petitioner has assailed the order dated 4.2.2002 passed by the learned Motor Accident Claims Tribunal, Alwar under section 140 of the Motor Vehicles Act, 1988 awarded interim award of Rs.50,000/- on the principle of no fault liability. The learned counsel for the petitioner while assailing the correctness of the said order, argued that the Insurance Company of the Motor-cycle which was involved in the accident with the vehicle has not been held liable to make payment of compensation, even though it was owing to the fault of the claimants that the owner was not impleaded as party. He submits that if the claimants have themselves not impleaded owner of the motor-cycle as party to the claim, he cannot be made to suffer on that account. The learned counsel for the claimant respondents however submits that the particulars of the owner could not be procured at the time when the claim petition was

filed. The owner of the motor-cycle could not be impleaded as party respondents.

I have heard learned counsel for the parties. The interim award was passed way back on 4.2.2002 and more than 5 years have gone by and the claim petition itself now must have been culminated into passing of the final award. But neither of the counsel are in a position to state as to when was the claim petition decided. According to section 140 of the Motor Vehicle Act, 1988, the award of the interim nature is required to be passed on the principle of no fault liability. Under the said provision the liability of the owner or owners of the vehicle or vehicles, is both the joint and several. This section contemplates involvement of two or more vehicles in an accident involving two motor vehicles liable to pay common compensation to both the owners of the vehicles. In such a manner if one vehicle is identified, he may be held liable to pay compensation because the liability is joint and several and in case identical of the other vehicle owner cannot be traced. Since the liability is joint and several, the arguments that he cannot be held liable to pay interim compensation cannot be sustained.

I, therefore do not find any merit in the writ petition and the same is dismissed with no order as to costs.

(Mohammad Rafiq),J.

Chauhan/